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**The South Dakota
Real Estate Commission
Was Created by the
South Dakota Legislature
in July 1955!**

Got Stories?

We would like to hear from you! If you have comments or an interesting story regarding the 50th Anniversary of the SDREC, let us know!

Contact Karen Callahan, RE View Editor at (605) 773-3600.

From the Director's Desk



July 1st is fast approaching and for you brokers opting for appointed agency, you can legally offer that representation as of that date. The new Seller's Property Condition Disclosure Statement will also

be required. This form, along with the revised Real Estate Relationship Disclosure and Agency Agreement Addendum forms will be loaded to the Commission website (www.state.sd.us/sdrec) on July 1st.

I am frantically revising a new Consumer Guide and am anxious to get it into circulation. I have implemented "For the Buyer" and "For the Seller" sections, which I feel will be a tremendous benefit to the consumer.

July 1st also marks the Commission's 50th anniversary. For the next few issues of the Real Estate View, we hope to reminisce over the past 50 years. I'm sure you'll enjoy the articles in this issue from Larry Lyngstad, who is my predecessor and also Claude Hone who was issued Salesperson License #1.

I've been with the Commission for almost 16 years now and can honestly say I've enjoyed every hat I've worn. I am honored to have been the first female auditor/investigator, the first education director, the first webmaster and now, the first female executive director for the Commission. It's been a privilege to have had a mentor like Larry Lyngstad who took me under his charge in 1989. Although commission members come and go, each one has had a lasting impact on the Commission's charge.

I think what has impressed me the most over my tenure with the Commission is the rapport between the office staff and the licensees. This relationship continues to exist because of the dedicated staff that I am privileged to work with.

Technology has also made its way to the Commission office. We pride ourselves on the licensee database that was custom designed a few years ago to more efficiently

meet the needs of the staff. And now with today's technology, our licensees can access their licensing and education information via the Commission's website. I'm sure when Governor Joe Foss, in 1955, appointed Guy Ericson, Wendel Hanson, Penn Thompson, M. Wasser and Karl Zutz to comprise the first Commission, no one dreamed that this type of technology would be utilized by the staff and licensees.

Speaking of dreams, this year marks another 50th anniversary. Walt Disney's dream to create a park filled with wonderment and adventure was realized. As Walt would say, "All our dreams can come true - if we have the courage to pursue them." Perhaps if we continue to pursue our dreams, the next 50 years will be greater yet!

DjN



A Letter from the Chairman

This year marks the 50th anniversary of the existence of the South Dakota Real Estate Commission. As licensees, we all understand that the primary mission of this body is to protect the public. In the years that I have had the honor to be a commissioner, much has been said and done to help us, the licensees. The executive directors of the commission have worked diligently to provide high quality as well as timely subjects for licensees in an effort to continue our education.

We sometimes make fun of the fact that the "old blue book" was only a few pages years ago and make the observation as to how "thick" it is today. Some of us have been around long enough to remember when a deal was done with a handshake and today requires everything in writing. We understand that the legal and consuming environment is dramatically changing and the commission has a responsibility to respond to change. We know that an important function of the commission is to entertain complaints. The commission understands that along with this changing

environment, that many consumers are unwilling to be responsible for anything, much less their own decisions, thus a number of complaints fall into the frivolous category. On the other hand, we, as licensees are held to a higher standard than non-licensees and it is the responsibility of the commission to maintain those standards.

As I complete my tenure as Chairman, it is a good time to tell all of you that I am proud to have had the opportunity to serve my peers in this capacity, and equally proud of the way a vast majority of licensees have conducted themselves in their real estate careers.

Loren Anderson



Reflections of a Former Director

The period from February 1988 to October 2003 - my tenure with the real estate commission - represents a significant part of my adult life. I had made previous career changes, but none that would provide me the opportunities to learn and grow as did my position with the South Dakota Real Estate Commission.

I had the privilege of working with many dedicated commission members. The role of the commission was, and probably still is, sometimes misunderstood. Contrary to somewhat popular belief, the commission members were not (and probably still aren't) always of one mind and fortunately for everyone, did not always agree with me on every issue. Yet in spite of all of my shortfalls, some of my best friends are current or former members and staff of the commission.

I also had the privilege of working with a most loyal staff, with leaders and members of the South Dakota Association of Realtors, the South Dakota Auctioneers Association, and the South Dakota Multi-housing Association. Although we were not always on the same side on every issue, I believe we maintained mutual respect. Each of these groups was open to discussion of issues, and by working together, we were able to move forward. Real estate

prelicense schools worked diligently to bring relevant, up-to-date education to persons entering the business.

Several significant changes occurred during my tenure with the commission. Some of those changes included: The first agency disclosure law requiring a one-sentence disclosure, which was the first of many changes leading to the way real estate brokerage business is conducted today; mandatory Errors and Omissions insurance for real estate licensees; increased education requirements for licensing; prescribed continuing education; licensing of property managers; licensing of home inspectors, standardization of forms, and other changes.

Perhaps the most significant experience of my tenure with the commission was the opportunity to serve as president of the Association of Real Estate License Law Officials (ARELLO). Support from the commission, staff, industry members, and my family, as well as my colleagues made this possible. I made friends around the world, and continue to have contact with many of them. I have remained active in ARELLO, currently serving on a task force and am a member of a committee to plan a past-presidents reunion in conjunction with the convention during which we will celebrate 75 years of the organization in September 2005 in Toronto, Canada.

I keep busy in retirement and have little time to look back. I appreciate this opportunity to reflect, and although I don't miss the unpleasanties that sometimes go with a regulatory position, I do miss the many professional relationships that were afforded me, and the many opportunities to resolve issues. I wish every licensee continued success in an ever-changing business environment.

With fond memories,

Larry Lyngstad

SDREC's Number One

Many people claim to be "Number 1", but Claude Hone of Sioux Falls knows he is. Claude was issued the very first South Dakota Real Estate Commission Salesperson license – Number 1 – fifty years ago.

This year marks the 50th anniversary of the Commission. Claude was among several individuals who, in the early 1950's, saw the need for uniformity and minimum standards in a growing real estate profession. Hone and other members of the Sioux Falls chapter of the South Dakota Association of Realtors®, including Pete Hegg and Virginia Dettmann, successfully lobbied law makers for modern regulation of the business. They were among the early stewards who brought about the evolution of the real estate profession.

After serving in the Pacific as a Marine Corsair pilot – Iwo Jima, Okinawa, Guam and Tokyo Bay to be exact, Claude returned to the Sioux Falls area in 1945 and sold fire alarms until July of 1953, when his boss passed away suddenly. Claude was on his way to the Legion Club one Friday evening when he ran into Chuck Point, Sr. Chuck was looking to expand his insurance business to include real estate and offered Claude a job. Claude reported to work the following Monday morning and by the end of the week had sold 3 homes. By 1959, Claude had his broker's license and started his own real estate business.

Those early years were a more innocent time, according to Claude. Business was often transacted with a handshake; there were no purchase agreements, contracts, or disclosure laws. Most banks didn't have a mortgage department in the early 50's, so a real estate agent would often call around to banks to find the one with money to lend. In most cases, the bank would send the entire loan amount directly to the agent who would then dispense the monies to the seller. Claude tells of closing costs around \$60, and title insurance didn't exist.

Hard work shaped Claude's guiding philosophy toward selling real estate. He believes that selling real estate is not an "8 to 5, five day a week" job. It is a career in which a person must be prepared to walk the peaks and valleys that go with the territory. "Some weeks you eat beans, some weeks you eat steak," he says. The compass that guides Claude is easy to follow, "the buyer is happy, the seller is happy, and I'm happy or I walk away."

Claude has witnessed a multitude of changes over the last 50 years. Some of the first homes that Claude sold were in the Hilltop Heights area of Sioux Falls. A two-bedroom home sold for \$6800 of which

Claude made \$33 commission. Since the initial construction, Claude has sold some of these properties multiple times with the price of these same homes now exceeding \$90,000. He has seen interest rates on homes fluctuate from 4% in 1959 to as high as 18% in 1979.

Today, Claude remains active both personally and professionally. He continues to be an active participant in the development of the real estate profession which now encompasses a broad range of issues such as Fair Housing, buyer representation, environmental concerns and the multiple listing services. The same dedication he displays in his professional life is easily found in his personal life. He's a husband, father, World War II veteran, and equally enjoys his time on the golf course with his buddies or the dance floor with his wife of 60 years, Judy.

Claude knows many people who retire from one profession only to take up selling real estate. After becoming the first real estate licensee, Claude jokes that he wants to be the first real estate agent to actually retire from selling. But after 53 years and over 3500 homes sold, he is still asking his clients his trademark question, "What On Earth Do You Want?"



The South Dakota Real Estate Commission would like to thank Claude Hone for sharing 50 years of great stories!

New Licensees

The SD Real Estate Commission would like to welcome the following new licensees.

Broker

Anderson, Dennis D – Coon Rapids, MN
Boyd, Todd D – Clear Lake
Clark, David K – Elizabeth, CO
Evenson, Dennis D – Clear Lake
Fiscus, Clayton R – Billings, MT
Hernandez, Monica D – Brighton, CO
Hunsucker, David A – Newcastle, WY
Janssen, Roger F – Crofton, NE
Knight, John D – Clear Lake
Malmberg, Eric P – Prior Lake, MN
Merryfield, Margaret R – Huron
Olthoff, Rodney R – Lakota, IA
Stoltenburg, Gregory J – Clear Lake
Walgrave, Jason M – Shakopee, MN
Weber, Rick P – Valentine, NE

Broker Associate

Allmer, Danica S – Rapid City
Allmer, Derek M – Rapid City
Anderson, Gary M – Rapid City
Anderson, Paula J – Sioux Falls
Barnard, Melissa – Rapid City
Buck, Jr., Harold C – Brandon
Burton, Robert S – Hill City
Casey, John B – Rapid City
Collins, Blair R – Brookings
Cook, Lynda – Tea
DenBoer, Peggy L – Sioux Falls
Divan, Tony N – Rapid City
Dodds, Penny L – New Underwood
Donahue, Sandra M – Spearfish
Doohen, Michael P – Sioux Falls
Driver, Gretchen – Sioux Falls
Duhachek, Nancy J – Mission Hill
Dykstra, Jason H – Sioux Falls
Eaton, Melvin W – Belle Fourche
Fahey, Trish L – Lead
Fowlkes, Robert F – Sturgis
Franken, Joan M – Hartford
Glover, Leah “Delores” – Lead
Goetsch, Kathy J – Mitchell
Haeder, John L – Rapid City
Hansen, Julie – Rapid City
Harms, Timothy P – Aberdeen
Herlyn, Cameron J – Lennox
Hornstra, Robert G – Sioux Falls
Jensen, Bradley R – Rapid City
Jensen, Judith A – Beresford
Klugman, Crystal G – Hermosa
Kubik, Donna J – Hamill
Larsen, Travis – Sioux Falls
Lawler, Jeffrey L – Rapid City

Leonard, Beth A – Pierre
Libis, Christopher J – Springfield
Lidel, Pamela J – Chester
Lindholm, Katie A – Belle Fourche
London, Brian J – Colome
Maine, Marcie L – Sioux Falls
Manitz, Christine A – Sioux Falls
Marso, Diana M – Sioux Falls
Martin, Stuart R – Rapid City
Mitchell, Anthony J – Huron
Moser, Julie A – Larchwood, IA
Narragon, Rita F – Sioux Falls
Nible, Gregory A – Spearfish
Olson, Tara L – Sioux Falls
Persing, Steven C – Sioux Falls
Peterson, Bonnie L – Thornton, CO
Peterson, David D – Rapid City
Peterson, Mary E – Hot Springs
Rathbun, Oakley T – Rapid City
Rathbun, Teresa M – Rapid City
Redig, Brian M – Box Elder
Rehder, Jessica R – Brookings
Ronan, Terry J – Sioux Falls
Russell, James H – Rapid City
Schlingman, Carla M – Yankton
Schmalz, Matthew K – Ellsworth AFB
Sexton, Katie E – Sioux Falls
Sieck, Brian H – Piedmont
Sotherland, Cathy A – Hot Springs
Thompson, Carmen L – Spearfish
Thompson, Christopher J – Madison
Thompson, Dee A – Black Hawk
Trees, Susan D – Sioux Falls
Valnes, Kellee A – Luverne, MN
Van Gilder, Ryan C – Watertown
Wallem, L. Arvene – Tabor
Welker, Don J – Sioux Falls
White, Danielle H – Sioux Falls
Wiles, John S – Hermosa
Winter, Michael – Sioux Falls

Property Manager

Salverson, Thomas R – Hot Springs
Walter, Amanda K – Sioux Falls
Zimmel, Pamela K – Sioux Falls

Reg. Home Inspector

Day, Thomas D – Mitchell
Glanzer, Scott L – Rosemount, MN
Klemann, William C – Rapid City
Petit, Daron L – Tea

Res. Rental Agent

Bierschbach, Vicki L – Brookings
Haakinson, Curtis D – Vermillion
Papka, Richard A – Sioux Falls
Tuttle, Jennifer L – Sioux Falls
Walter, Kristin M – Sioux Falls

Salesperson

Freking, Jeff – Le Mars, IA
Gonzalez-Gaytan, Lillyan – Sioux City, IA
Hain, James L – Omaha, NE
Reichert, Mona – Billings, MT
Stojack, Linda L – Gillette, WY
Taggart Kounkel, Cam M – Hinton, IA
Taggart, Samantha J – Sioux City, IA

Timeshare Agent

Balster, Conrad D – Rapid City
Caple, Carol L – Sumner, WA
Crans, David H – Rapid City
Crans, Marnie – Rapid City
Hermanson, John – Rapid City
Iams, Miriam C – Rapid City
Lawler, Jeffrey L – Rapid City
Nelson, Will W – Keystone
Stetler, Gary L – Rapid City
Tschetter, Ryan L – Rapid City
Wright, Donnadell M – Sioux Falls

South Dakota Real Estate VIEW

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Articles by outside experts express the author's particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because they may be of interest to the readers.

Latest News in Regulation

News from ARELLO

ARELLO is a global, non-profit organization made up of entities involved in regulating the practice of real estate. The following information is printed with their permission.

Iowa Passes 'Minimum Services' Bill for July 1

While the international spotlight was on 'minimum services' policy discussions in Texas and Oklahoma, legislators in Iowa quietly enacted H.F. 375, which is very similar to minimum services proposals and legislation in other U.S. states. The new law, effective July 1, requires licensees to accept and present offers and counteroffers to clients, must assist clients in negotiations and must answer client questions. The measure also mandates the ability to provide access to all properties to interested consumers.

Wisconsin Adds \$ Disclosure

Sellers in Wisconsin, who file a Real Estate Transfer Return upon the sale of their property, must disclose any information about seller-assisted financing involved in the transaction. The disclosure, which is simply a box that sellers must check, will indicate to tax assessors when a transaction might require some scrutiny. Wisconsin's Department of Revenue began requiring the disclosure in an effort to expose creative financing techniques that increase a property's purchase price. In such an arrangement the parties may agree to a higher purchase price and the seller, in exchange, offsets the increase by offering financial assistance, such as points, credits or other options. The higher prices could lead to greater assessed values and inflated property taxes for neighboring properties.

Texas Referrals Mean Forms

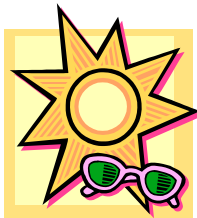
Texas has adopted a rule that requires home inspectors to obtain written approval from their clients for any fees the inspector receives from service providers, such as home security companies, pest control services and air conditioning contractors. They also must disclose any payments made to another party to the transaction.

Alabama Considers 'Minimum Services', Apartment Manager Licensing Bills

The Alabama Legislature is considering two bills of interest to the real estate community, including a limited-service bill. Both proposals have passed the House and are out of committee in the Senate. One bill would set minimum standards of service, requiring licensees to answer client questions and forward important documents to clients. The other measure under consideration would require apartment managers to have a real estate license. Currently, Alabama law requires property managers to hold a real estate license, but it exempts apartment managers from that requirement. The bill would give apartment managers until January 2007 to become licensed. Apartment owners, their employees and on-site apartment managers would still be exempt from the licensing requirement.

Texas Delays 'Minimum Services' Rule Decision, Initiates New Research

The Texas Real Estate Commission decided during its April 25 meeting to delay until its June 13 meeting a decision on a proposed minimum-service rule. In the interim, the Commission has requested input from their Attorney General regarding anti-trust laws and help in responding to comments from two federal agencies. Also, in light of new business models in operation, the Commission has directed staff to request clarification from the Texas Legislature of an existing statute that prohibits licensees from engaging in negotiations with a person represented in an exclusive agency relationship. Finally, the Commission asked the staff to draft a disclosure to inform the sellers that, among other things, the broker representing the other party will not represent them and cannot give them advice or aid.



Disciplinary Action

The following disciplinary actions have become effective since the last report in the newsletter, excluding cases currently on appeal. A Stipulation and Assurance of Voluntary Compliance is a settlement agreement between licensees and the Real Estate Commission and constitutes neither an admission nor a denial of any violation.

Marsha Salhi, Sioux Falls, Broker.

Findings of Fact, Conclusions of Law, and Order. One year suspension of broker license, with one year stayed pending no further violations of license law, pay a monetary penalty of \$500.00 and costs of \$2,343.60, completion of 4 hours of continuing education in the area of ethics and 6 hours of continuing education in the area of agency within one year. Violation of SDCL 36-21A-71 (3), (32) and (33). Stay revoked, suspension imposed. Further, defendant did not pay penalty/costs.

Darrel Kelly Berglin/Hegg Realtors Inc., Sioux Falls, Broker. Stipulation and Assurance of Voluntary Compliance. Completion of 6 hours of continuing education in the area of agency within one year. Alleged violation of SDCL 36-21A-71 (33), 36-21A-130 and 36-21A-147.

Dale McPherson, Rapid City, Broker. Findings of Fact, Conclusions of Law, and Order. Pay a monetary penalty of \$500.00 and costs of \$327.60. Violation of SDCL 36-21A-28; 36-21A-87; 36-21A-71 (1); 36-21A-71 (32) and 36-21A-79.

Todd McPherson, Rapid City, Broker Associate. Findings of Fact, Conclusions of Law, and Order. Pay a monetary penalty of \$500.00 and costs of \$327.59. Violation of SDCL 36-21A-28; 36-21A-87; 36-21A-71 (1); 36-21A-71 (32) and 36-21A-79.

Kevin McPherson, Rapid City, Broker Associate. Findings of Fact, Conclusions of Law, and Order. Pay a monetary penalty of \$500.00 and costs of \$327.59. Violation of SDCL 36-21A-28; 36-21A-87; 36-21A-71 (1); 36-21A-71 (32) and 36-21A-79.

APPRAISER UPDATE

This section of the South Dakota Real Estate Review is the responsibility of the South Dakota Department of Revenue and Regulation Appraiser Certification Program. Articles are printed here to communicate pertinent information to those appraisers who receive this newsletter and are licensed under the Certification Program. Appraiser certification inquiries can be directed to Sherry Bren, Program Administrator, 445 East Capitol, Pierre, SD 57501, 605-773-4608.

Appraiser Certification Program Mission-Purpose-Intent

The Appraiser Certification Program was implemented July 1, 1990, pursuant to enactment of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) by Congress. The mission of the Program is to certify, license and register appraisers to perform real estate appraisals in the State of South Dakota pursuant to Title XI (FIRREA). The purpose of the Program is to examine candidates, issue certificates, investigate and administer disciplinary actions to persons in violation of the rules, statutes and uniform standards, and approve qualifying and continuing education courses. Title XI intends that States supervise all of the activities and practices of persons who are certified or licensed to perform real estate appraisals through effective regulation, supervision and discipline to assure their professional competence.

Appraiser Certification Program Advisory Council

Council members provide recommendations to the Secretary of the Department of Revenue and Regulation in the areas of program administration in order to sustain a program that is consistent with Title XI. The Council meets quarterly in public forum. See the Website for meeting information. www.state.sd.us/appraisers

Question Received by the Department Disclosure of Proposal to Close Ellsworth Air Force Base

Question: I am an appraiser in the Rapid City area. I have been told by a mortgage lender that I cannot legally include information pertaining to Ellsworth Air Force Base being on the proposed list for base closures in my appraisals because the decision is not final. The lender said that when the final decision is made in November appraisers will be instructed how to state this information in their appraisals. The lender states that if appraisers include this information in their appraisals now, it will prevent loans from closing which will be a really big problem and this will apply not only to wholesale lending but may stop the correspondent side from buying any loans, too. Should I include this information in my appraisals even though this particular lender says that I should not?

Answer: If an appraiser has data that he or she feels has an impact on the value and/or marketability of a property the appraiser must disclose that information. This is true whether or not it's something that is being proposed or has officially been approved. The key factor is whether there is any data as to how the market is reacting to the issue. (The response to the appraiser's question was provided to the Department by the Appraisal Foundation staff. For further guidance review the 2005 Edition of the Uniform Standards of Professional Appraisal Practice.)

To Report Lender Pressure

Contact the following entity as appropriate:

National Banks – Office of the Comptroller of the Currency (800-613-6743)

Saving and Loan Banks – Office of Thrift Supervision (800-842-6929)

Credit Unions – National Credit Union Administration (703-518-6330)

State Chartered Banks – Federal Deposit Insurance Corporation (877-275-3342)

Mortgage Companies – Federal Trade Commission (877-382-4357)

New Member of the Advisory Council

Craig Sommers, staff appraiser for Farm Credit Services of America in Aberdeen, has been appointed to serve on the Appraiser Certification Program, Advisory Council. Craig represents the institutional staff appraiser's interest on the Council by providing assistance and advice for the administration of the Appraiser Certification Program. The Department welcomes Craig's service on the Council.

Advisory Council Vacancy

The Department of Revenue and Regulation is seeking a state-certified general appraiser located in Eastern South Dakota to serve on the Appraiser Certification Program Advisory Council.

If you are interested in nominating yourself or another appraiser for the appointment to the Advisory Council, please submit your nomination in writing to:

Department of Revenue and Regulation
Appraiser Certification Program
445 East Capitol Avenue
Pierre, South Dakota 57501

Nominations will be accepted until July 1, 2005

The nomination should include the appraiser's name, address, and the reason that you or the person you have nominated should be appointed to the Advisory Council. Any person nominated for the position should possess substantial knowledge regarding appraising, a reasonable understanding of Title XI, FIRREA and its impact on the appraiser profession, and be highly respected in the appraiser industry.

If you have any questions, please contact Sherry Bren by telephone at 605-773-4608 or by e-mail at Sherry.Bren@state.sd.us.

USPAP Q & A

Vol. 7, No. 3, March 2005

Required Level of Detail in a Self-Contained Appraisal Report

Question: A colleague recently told me that she never prepares Self-Contained Appraisal Reports. She believes that it is impossible to write a report that contains all the information and analysis that supports her assignment results. I have heard others express similar thoughts. Is it true that a Self-Contained Appraisal Report must include an exhaustive account of my appraisal process?

Using the Definition of Value Provided

Question: A client has asked me to use a definition of value included in an engagement letter for the assignment. Is this permitted?

Vol. 7, No. 4, April 2005

Disclosure of the Client in a Prior Assignment

Question: As a condition of engagement, I have been asked to disclose the name of the client for any prior appraisals I have completed on the subject property. Is making this disclosure a violation of USPAP?

[The Q&A shown below appears in the 2005 Frequently Asked Questions publication. It has been reprinted here because the question is relevant to this month's USPAP Q&A. The 2005 Frequently Asked Questions publication is available for purchase from the Appraisal Foundation at a cost of \$20. (www.appraisalfoundation.org or 202.347.7722)]

Disclosure of a Prior Assignment

Question: As a condition of engagement, a financial institution requires that I disclose any prior appraisals I have completed on the subject property. If I disclose that I have previously appraised the subject property, am I violating USPAP?

Vol. 7, No. 5, May 2005

When Does STANDARD 3 Apply?

Question: I am an appraiser and my practice includes requests to comment on a wide range of valuation work performed by others. Sometimes this work is presented as an appraisal report, appraisal consulting report, consulting report, market data summary, and even as a broker's price opinion. When does STANDARD 3 apply?

USPAP Compliance in Retrospective Appraisals

Question: When preparing an assignment with a retrospective date of value, should the appraiser comply with the standards in effect as of the date of valuation or as of the date of report?

Compliance with USPAP: Personal Property, Business Valuation and Intangible Asset Appraisers

Question: Are personal property, business valuation and intangible asset appraisers required to comply with USPAP?

Answers to the above questions can be found at: www.appraisalfoundation.org

New Licensees – April/May

Gregory E. Michaels, State-Certified Residential – Rolling Meadows, IL

Patrick G. Lynch, State-Certified General – Eden Prairie, MN

Terry D. Veldhouse, State-Registered – Sioux Falls, SD

Jody R. Jordan, State-Registered – Aberdeen, SD

Scott L. Glanzer, State-Registered – Rosemount, MN

Robert W. Folsland, State-Registered – Rapid City, SD

Mike J. Gustafson, State-Licensed – Eagan, MN

Gary H. Chartier, State-Registered – Beresford, SD

Review of Cases as of May 20, 2005

For the period January 1, 2005 through May 20, 2005 there have been 2 upgrade applications, 1 new application claiming experience, and 3 complaints submitted to the Department.

Upgrades – 2 pending

New Applicant – 1 pending

Complaints – 2 pending; 1 dismissed

2005 Renewal

The 2005 renewal applications will be mailed the first week in July. In order to renew your certificate for state-certified general, state-certified residential, state-licensed and state-registered appraiser you must submit the completed application, applicable renewal fees and verification of 28 hours of approved continuing education which includes the 7-hour National USPAP update course by August 17, 2005. (The 15-hour National USPAP Course may not be submitted in lieu of the 7-hour National USPAP update course.)

Contents of a Workfile Uniform Standards of Professional Appraisal Practice ETHICS RULE Mythology vs. Methodology

(Article courtesy of the Iowa Professional Licensing Division Newsletter, April/May/June 2005. Author - Karen Oberman, Vice Chair, Iowa Real Estate Appraiser Examining Board.)

As a member of the Appraiser Board, as well as my experience as a student, instructor, review appraiser, "time in the field" and an active member of an appraisal organization, I

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have had the opportunity to hear a lot of interesting comments and different approaches to appraisal methodology. And while, often, I can easily say that there is “no one way of doing things.” I can just as often say that there are certainly “wrong ways of doing things.”

If you find yourself, on what some would perceive, as the wrong side of the table with the Appraiser Board (and sometimes this is simply misperception, because in the case of Peer Review, it is believed to be more of an educational opportunity than a negative occasion), I would simply offer some words of caution on perhaps what ‘should not be said’ or what some of the common errors are that have been routinely cause for concern.

“The adjustment is based upon my years of experience (I just know) and my work as a Review Appraiser.”

It is not OK, to take adjustments from an appraisal report that you are reviewing and use them as “standard” adjustments, or imply that they are “market derived” because another appraiser used them. A comment was made to me once, indicating that the reason behind this was because “this is my peer,” and I am supposed to act like my peers.

No. USPAP defines an appraiser’s peers as “other appraisers who have expertise and **competency** in the same or a similar type of assignment”. [Emphasis added] A competent appraiser researches, verifies and can support and defend any adjustment made, simply using/reporting what other appraisers have indicated without independent analysis is misleading as it is not the signing appraiser’s opinion, but someone else’s.

Additionally, “I just know” and “based on my experience” are neither good answers nor adequate “support.” Appraisers should be prepared to explain (and have in their workfile) the information that supports their conclusions. If based on “experience” exactly what experiences are being utilized, how do they relate to the analysis at hand and how have they been quantified?

“I don’t really know why it says that, my computer just defaults that every time” ... or “my computer does all the calculations, and I don’t know where the numbers come from.”

You are responsible for the integrity of the data that you present for analysis. If you do not understand where the information is coming from that your computer “spits out”,

then you need to call your software vendor and get educated on that system. If there are software errors that result in incorrect calculations or defaults, you are responsible for the errors through the “due diligence” required of USPAP, and they should be recognized in a review of the report prior to submission to the client. While no report is 100% error free, and USPAP readily agrees that “perfection is impossible to attain, and competence does not require perfection,” USPAP also indicates that “...the gathering of factual information is conducted in a manner that is sufficiently diligent...”

If the same error is in every report because the appraiser has not taken the time to understand why or where the calculations or numbers are derived; and the errors result in consistently incorrect analysis and methodologies, the appraiser is not acting in a sufficiently diligent manner.

“I marked the ‘did inspect’ box, but I didn’t actually inspect the interior of the property...is that wrong?”

Arguably, yes. This has become slightly more confusing with the introduction of the 2055 report and Fannie Mae, a large user of our services, acknowledging different degrees of acceptable inspection. However, when specifically preparing a report on the URAR 1004 form, the appraiser must ask and reasonably answer, “What does my client think this means?” For most clients, unless very obviously reported and disclosed in the report, the assumption is that the signing appraiser actually, physically inspected both the interior and exterior of the subject improvements. If you thoroughly read USPAP, I’m sure you’ll run across some language in there that states something along the lines of “a report must contain sufficient information to not mislead the client.” If you need more clarification on this issue, read up on Standard 2.

“My client asked me to make that statement (or take that statement out)”

While we all have client issues that we deal with on a daily basis, it is incumbent upon the appraiser to recognize what the clients responsibilities are and the appraisers responsibilities are. The client can certainly request that you take out the statement indicating that the septic tank, (which is obviously leaking), is in need of repair. But then you are obligated to report this assignment is contingent upon the extraordinary assumption that the septic system is functional and in working order. (And, I would further argue even disclose that you know that this appears to be factually untrue, lest you mislead...) Additionally you should state that this assumption, if found to be false could have a significant adverse affect on value. Now, you are complying with your clients’ wishes and also the Ethics Rule of USPAP.

If the client doesn’t want to lend on a “rural property,” then you don’t make the report “suburban” to appease that client, even though it’s a 10-acre site, 25 miles from the nearest town. There are times when it is imperative that the appraiser educate the client as to what your reporting responsibilities are. (Especially since it is your license on the line!) Again, a review of Standard 2, as well as the Ethics and Competency Rules, would be good reading if there is a question as to what you can and can not do at a clients’ request.

What many of these situations boil down to, can be summed up with the terminology “due diligence,” with a bit of Ethics and Competency on the side. Common appraisal methodology and techniques are easily taught. Information is abundant and readily available for professional analysis. However, it takes time to do an appraisal and do it competently and ethically. This should be recognized as a professional responsibility, not a choice.